IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Bail Appl..No. 3679 of 2007()

(CRIME NO.223/2007 OF BAKEL POLICE STATION)

: PETITIONERS/ACCUSED 1,3 & 4

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1. HASHIM, AGED 32 YEARS,
   S/O ABDULLA, RESIDING AT JUMA MAZJID ROAD,
   KOTTIKKULAM, BAKEL P.O., KASARGOD DISTRICT.

2. BASHEER, AGED 30 YEARS,
   S/O ABDULLA, RESIDING AT JUMA MAZJID ROAD,
   KOTTIKKULAM, BAKEL P.O., KASARGOD DISTRICT.

3. MUHAMMED IQBAL, AGED 30 YEARS,
   S/O ABDUL KHADER, RESIDING AT
   KOTTIKKULAM, BAKEL P.O., KASARGOD DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENTS: STATE

THE STATION HOUSE OFFICER,
BAKEL POLICE STATION, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.3679 of 2007

Dated this the 19th day of June 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1,3 and 4. Altogether there are four accused persons. They face allegations inter alia under Sections 341,353 and 427 read with 34 I.P.C. The alleged incident took place on 10/6/2007. On receipt of a complaint from the local Panchayat President, the local Sub Inspector of Police is alleged to have gone to the scene of occurrence where he was allegedly threatened, intimidated and deterred by the accused persons. This, in short, is the allegation. Crime was registered promptly. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioner submits that the petitioners are absolutely innocent. Influential Panchayat President is able to prevail upon the S.I to raise unnecessary and false allegations against the petitioners. The petitioners apprehend danger to themselves if the police were to arrest

them and keep them in custody. The offence under Section 353 I.P.C is the non-bailable offence. The same has been made non-bailable recently in 2006. I have considered all the relevant inputs. I am satisfied that in the peculiar facts and circumstances of this case, the petitioners can be given opportunity to surrender before the learned Magistrate and the learned Magistrate can be directed to consider the application for bail on merits and pass appropriate orders.

3. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C.

(i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 26/6/2007. They may apply for bail on the same day after giving sufficient prior notice to the learned Public Prosecutor in charge of the case.

(ii) The learned Magistrate shall consider the application for bail on merits and pass appropriate orders on that day itself.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(iv) If they were arrested prior to 26/6/2007, they shall be released on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 26/6/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007